

ACS**Algonac Community Schools**

1216 St. Clair Blvd. Algonac, MI 48001

SLD Decision Appeal – Funding Year 2004-2005

November 17, 2005

Applicant Name: Algonac Community School District
 Billed Entity: 130789
 Form 471 Application Number: 405730
 Funding Request Number: 1111155

RECEIVED & INSPECTED**NOV 29 2005****FCC - MAILROOM**

Algonac Community School's request for review, the Schools and Libraries Division (SLD) decision to deny funding for Algonac Community Schools internet service, funding request number 111155 per CC Docket No. 02-6 of the Federal Communications Commission. It is my goal in this appeal to show that Algonac Community Schools followed all SLD rules and regulations in its filing of Form 470 and Form 471 for internet service. Furthermore, that the agreement between the Intermediate School District of St. Clair, now known as **St. Clair County Regional Educational Service Agency (RESA)**, is a multiyear contract. Finally, to demonstrate that Algonac Community Schools complied with the competitive bidding process required by SLD to insure the District has received the lowest pre-discount price from vendors for services provided.

- **Internet Connections Agreement** – The contract entered into between Algonac Community Schools and RESA, is a multiyear contract established in 1999 with a contractual period running July1, 1999 through June 30, 2007. Said agreement is for high-speed Internet connectivity for the members of the St. Clair County Telecommunications Educational Network (SCCTEN). The SCCTEN, established in 1998 by the School Districts of St. Clair County and the RESA, is an effort to extend the capabilities of distance learning and information processing in the County of St. Clair and increase their ability to share the respective resources throughout the use of the SCCTEN. The multiyear contract signed in 1999 basis its rate amount on fall student counts for the individual school districts. Addendums are then applied to the originating contract for subsequent years basing its billed rate on the fall student count for that school year. The districts do not sign a new contract for internet service; they approve an addendum to the original contract for the billed rate.
- **Consortium Form 470 Application Number 527900000266476** – The Form 470 Application Number 527900000266476, used in the funding request in question, has been used by the members of the SCCTEN consortium since it was filled during funding year 3 (2000-2001). Form 470 527900000266476 was posted for the mandated 28 day period whereas the RESA was the only vendor to provide a bid response. The District selected the RESA to provide internet service

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to the district. The Form 470 Application Number 527900000266476 has been reviewed by the SLD as recently as 2005 by Dennis Nielsen of the SLD, and has been shown to be a valid 470 for the multiyear agreement between the RESA and the school districts indicated on the consortium 470. Attached you will find a memo to Mr. Nielsen from Scott Bryan, RESA's Director of Information Services regarding this Form 470. Furthermore, The Universal Service Administrative Companies website indicates that new Form 470s need not be filed on multiyear contracts. "Note that once an applicant has signed a multi-year contract in a prior funding year pursuant to a posted Form 470, it need not submit a new Form 470 to be eligible to apply for discounts on the services provided under that multi-year contract for future funding years" (FCC Form 470, Retrieved Nov 17, 2005 from <http://www.sl.universalservice.org/applicants/form470.asp>). Finally, the issue of the indicated Form 470 was the cause of a denial of funding in funding year 4, 2001-2002. Algonac Community Schools successfully appealed the denial, see included "Letter of Appeal on Funding Decision".

- **Form 470 Application Number 712260000480721** – Alternately, Algonac Community School's, to insure that the District received the best possible price on pre-discounted services, filed a separate Form 470 on its own behalf. Form 470 Application Number 712260000480721 for Internet Service was filed on December 11, 2003 and posted by the SLD for the mandated 28 days before any contract award. After the 28 day period, no bids were submitted by any vendors to provide Algonac Community Schools with Internet Service. As a side note, Algonac Community School's began filing this secondary Form 470 separate from the consortium Form 470 beginning-funding year 6, 2003-2004 with Form 470 Application Number 814250000429456.
- **Service Provider** – After Form 470 Application Number 712260000480721 failed to produce any bidders for Internet Service, Algonac Community School's continued its multiyear agreement with the RESA to provide the District with internet service. This multiyear agreement was a pre-existing contract, and as such, Algonac Community Schools chose to continue using the consortium Form 470 which was the originally filed and subsequently answered to by the RESA.

In support of the above information, I am including copies of the countywide consortium network agreement, original internet service contract, 04-05 school year contract addendum, Form 470 527900000266476 memo from RESA to Dennis Nielsen, SLD appeal decision and Letter of Appeal on Funding Decision. It is the belief of Algonac Community School's that all the rules and regulations pertaining to the Universal Service program were followed. The Form 470 and Form 471 seeking internet service were submitted within the timeframes set forth by the SLD and that these forms comply with all competitive bidding requirements. For any information regarding this appeal please contact Evan Humphrey, 5200 Taft Rd, Algonac, MI 48001, (Phone) 810-794-5832x1101, (fax) 810-794-8876

ST. CLAIR COUNTY
TELECOMMUNICATIONS EDUCATIONAL NETWORK

CONSORTIUM AGREEMENT

This Consortium Agreement ("Agreement") is made this 6th day of November, 1998, by and between the Participants, as defined in this Agreement;

WHEREAS, the Intermediate School District of St. Clair County (the "ISD") is installing a fiber optic telecommunications network, to be known as the St. Clair County Telecommunication Educational Network (the "SCCTEN");

WHEREAS, the ISD is the owner and the operating and fiscal agent for the SCCTEN;

WHEREAS, the Participants desire to extend the capabilities of distance learning and information processing in the County of St. Clair and increase their ability to share their respective resources through the use of the SCCTEN;

WHEREAS, the Participants desire to enter into a consortium agreement for the purpose of coordinating the use and operation of the SCCTEN;

WHEREAS, the Michigan Telecommunications Act, MCL 484.2101, et seq., the Michigan Revised School Code, MCL 380.1 et seq., the Intergovernmental Contracts between Municipal Corporations Act, MCL 124.1 et seq. and the Michigan Urban Corporations Act, MCL 124.501 et seq. authorize the ownership, construction and operation of advanced technology and telecommunications systems and the entering into consortium agreements of this nature;

NOW, THEREFORE, the Participants do mutually agree to form a consortium in accordance with the following:

ARTICLE ONE: PURPOSE

1.1 Purpose. The purpose of this Agreement is to form a voluntary unincorporated consortium in order to coordinate the use and operation of the SCCTEN by the Participants and Owner.

ARTICLE TWO: DEFINITIONS

2.1 Definitions. As used in this Agreement, the following terms have the following meanings:

2.1.1 Agreement or Consortium Agreement means this Consortium Agreement entered into by the Participants and Owner.

2.1.2 Consortium Executive Committee means the SCCTEN Consortium Executive Committee as established pursuant to this Agreement.

2.1.3 Demarcation Point or Line means the place which divides the SCCTEN from equipment or facilities which may be owned by someone other than the Intermediate School District of St. Clair County.

2.1.4 ISD or Owner means the Intermediate School District of St. Clair County.

2.1.5 SCCTEN means St. Clair County Telecommunication Educational Network which is comprised of the fiber optic cable and all appurtenant and related parts, components, equipment and devices.

2.1.6 Participant means any person who is or becomes a party to this Agreement as an Original Participant, Grand-fathered Participant or New Participant.

2.1.7 Person means any individual, partnership, corporation, association, or legal entity, including without limitation, any voluntary association or institution.

ARTICLE THREE: TERM OF AGREEMENT

3.1 Term. The term of this Agreement shall be for Three (3) years.

3.2 Automatic Renewal. This Agreement shall automatically renew after the initial three (3) year term from year-to-year, subject to the authority of the ISD to non-renew this Agreement in accordance with Section 3.3, below. The participation in this Agreement by all Participants is subject to the provisions of Article 12.

3.3 Non-renewal. The ISD may non-renew this Agreement after the initial three (3) year term or after any subsequent automatic renewal period upon giving each Participant thirty (30) days advance written notice of its intent to non-renew.

ARTICLE FOUR: CONSORTIUM PARTICIPANTS

4.1 Original Participants. The Original Participants in this Consortium Agreement are the Algonac Community School District, Capac Community Schools, East China School District, Marysville Public Schools District, Memphis Community Schools, Port Huron Area School District, Yale Public Schools, St. Clair County Community College, St. Clair County Library. All Original Participants are required to enter into an agreement with the ISD for the use of the SCCTEN and/or the receipt of services from the ISD through the use of the SCCTEN.

4.2 Grand-fathered Participants. Port Huron Hospital, River District Hospital and Baker College may be grand-fathered as a Participant under this Agreement when each has satisfied the requirements of Sections 4.3.4, 4.3.5 and 4.3.6, below, as applicable to New Participants.

4.3 New Participants. New Participants may be added to this Agreement on the following conditions:

4.3.1 Application and Application Fee. An applicant who desires to become a Participant shall submit a letter requesting to become a Participant and/or completing any application developed by the Consortium Executive Committee, along with any applicable application fee, to the ISD. The amount of the application fee, if any, shall be determined in the discretion of the ISD, taking into account the cost of the application process, any recommendations of the Consortium Executive Committee and any other relevant information.

4.3.2 Consortium Executive Committee Review. The Consortium Executive Committee will review the application submitted and the qualifications of the applicant, compare the compatibility of the needs and intended use of the SCCTEN by the applicant with the purpose and use of the SCCTEN, consider any other relevant information and will make a recommendation to the ISD.

4.3.3 ISD Approval. The ISD will review the recommendation of the Consortium Executive Committee and approve or reject an applicant as a Consortium Participant.

4.3.4 Costs. Upon approval by the ISD, the applicant will be responsible to pay any and all costs, expenses and fees to complete the connection of the applicant to the SCCTEN, including any legal, engineering, construction, equipment, supplies, permit, make-ready or other costs, expenses and fees associated with the connection of the applicant to the SCCTEN or otherwise caused by the addition of the New Participant.

4.3.5 Consortium Agreement. Upon approval by the ISD, the applicant is required to execute a copy of this Consortium Agreement, indicating acceptance of and adherence to all of the terms and conditions of this Agreement.

4.3.6 Use Agreement. Upon approval by the ISD, the applicant is required to enter into an agreement approved by the ISD for the use of the SCCTEN and/or the receipt of services from the ISD through the use of the SCCTEN.

4.4 Participant Meetings. All Participants are expected to have representation at the annual consortium membership meeting and other special consortium membership meetings as scheduled by the Consortium Executive Committee.

ARTICLE FIVE: OWNERSHIP

5.1 System Ownership. SCCTEN shall be owned by the ISD. The ISD reserves onto itself the authority to make all final decisions on matters affecting the SCCTEN.

5.2 Equipment Ownership. All equipment and devises which are appurtenant to the SCCTEN and located at the Participant's facilities and on the Participant's side of the demarcation line shall be owned by each Participant, if purchased by the Participant, but if purchased by the ISD or with grant or matching funds as a part of the SCCCTEN, then it shall be a part of the system and owned by the ISD. In the event of expiration of this Agreement or the termination of participation of a Participant under this Agreement, any part or component of the SCCTEN located at an affected Participant's facilities shall remain in accordance with any right-of-way, easement or other agreement entered into pursuant to Section 10.5 of this Agreement or, in the absence of such agreement, shall be returned to the ISD in the same condition as when originally installed, reasonable wear and tear excepted.

ARTICLE SIX: OPERATING AND FISCAL AGENT

6.1 Operating and Fiscal Agent. The ISD shall serve as the operating and fiscal agent of the SCCCTEN.

6.2 Operations and Administration. The ISD shall operate the system on a day-to-day basis and shall develop policies and make decisions on the management and operation of the SCCTEN with consultation and input from the Consortium Executive Committee.

ARTICLE SEVEN: CONSORTIUM EXECUTIVE COMMITTEE

7.1 Members. The Consortium Executive Committee shall be composed of a designated representative from the Owner and each Original Participant. The Consortium Executive Committee may decide to increase or decrease the number of members between 3 and 11 and choose such membership by a majority vote of the current members.

7.2 Duties and Responsibilities. The Consortium Executive Committee shall be concerned with SCCTEN issues and provide input and consultation to the ISD on such matters as SCCTEN policies, the scheduling and use of SCCTEN facilities, the definition of SCCTEN demarcation points, future expansion of the SCCTEN, equipment standards and specifications, review of applications for New Participants, guidelines for the use and operation of the SCCTEN, the ownership of information placed onto the SCCTEN, SCCTEN security and such other matters which may from time to time come before the Consortium Executive Committee. The Consortium Executive Committee may establish such officers or positions, bylaws and procedures and may receive input and advice from other persons, entities, committees or bodies as it deems appropriate and necessary.

7.3 Consortium Executive Committee Meetings. The Consortium Executive Committee shall meet from time to time as necessary to carry out its duties and responsibilities.

7.4 Participant Meetings. The Consortium Executive Committee shall schedule an annual participant meeting and, as deemed appropriate by the Consortium Executive Committee, special participant meetings, and shall cause all Participants to be notified of the time and place of any such meetings.

7.5 Presiding Officer. The Consortium Executive Committee shall elect from among its Members, a chairperson to preside over Consortium Executive Committee meetings, participant meetings, and to perform such other tasks as he may be given by the Consortium Executive Committee.

ARTICLE EIGHT: SCCTEN MAINTENANCE

8.1 System Maintenance. The ISD will provide or contract for the provision of maintenance to the SCCTEN. Such maintenance may be performed by ISD staff, the staff of Participants or by outside contractors, at the discretion of the ISD. Grand-fathered Participants who activate their status and any New Participants shall be responsible for the cost of any maintenance for that part of the SCCTEN installed or required only to connect and operate its facilities, including the fiber, equipment or appurtenant devices, from the point where the fiber connecting the Grand-fathered or New Participant separates from the backbone of the SCCTEN or other point agreed upon by the ISD. Upon the expiration or termination of the current maintenance agreement between the ISD and BRE Communications, L.L.C. d/b/a Phone Michigan, the Original Participants shall review the SCCTEN maintenance costs and agree to a fair and equitable allocation of the cost to maintain the remaining portions of the SCCTEN.

8.2 Access to facilities. Each Participant will provide the ISD, and any designated maintenance contractor, access to its facilities and any property and equipment thereon, as required in order to meet the maintenance objectives and schedules as determined by the ISD and/or the designated maintenance contractor. This requires each Participant to designate a contact person(s) and to provide the ISD and any designated maintenance contractor with telephone numbers or other adequate means which will permit the ISD and designated maintenance contractor to contact such person(s) in order to arrange such access Twenty-four (24) hours a day, Seven (7) days a week, Three Hundred Sixty-five (365) days a year.

ARTICLE NINE: USE OF SCCTEN

9.1 Participant Use. The use of the SCCTEN by Participants shall be governed by the individual service and/or use agreements executed between the ISD and each Participant and any use agreements or policies adopted by the ISD.

9.2 Users and Subscribers. Access to the SCCTEN will be made available to various non-Participant users and subscribers from time to time at the discretion of the ISD. Users and subscribers must enter into appropriate written agreements with the ISD at rates and on terms and conditions to be established by the ISD.

ARTICLE TEN: PARTICIPANT RESPONSIBILITIES

10.1 Separate Maintenance. Each Participant reserves to itself, its successors and assigns, the right to maintain its own buildings, facilities, and equipment in such manner as will best enable it to fulfill its own requirements.

10.2 Caution. Each Participant shall exercise reasonable precautions to prevent damage to or interference with the operation of SCCCTEN, including the cable, equipment, facilities and appurtenance thereto.

10.3 Service Centers and Equipment. Each Participant will make available and maintain its facilities as may be required by users at rates to be established by each Participant based on its costs. Each Participant will have full control over scheduling and use of its facilities.

10.4 Compatible Equipment. Each Participant shall utilize equipment which is compatible with the equipment standards and specifications established for the system.

10.5 Right-of-ways. Each participant agrees to enter into long-term right-of-way, easement or other agreements with the ISD which are useful or necessary for the development and operation of the SCCTEN. Such agreements shall be irrevocable and may not be terminated even if this Agreement expires or participation of the Participant under this Agreement terminates. Such agreements shall provide for the reasonable and necessary removal and relocation of the components of the SCCTEN, at the cost and expense of the requesting party or as otherwise agreed upon, so long as the continued operation of the SCCTEN is not jeopardized.

10.6 Demarcation Point. Each Participant shall establish in cooperation with the ISD, a demarcation point where it is agreed that the SCCTEN facilities are on one side of the point and the Participant's equipment is on the other side of the point.

10.7 Security. Each Participant is required to maintain the security of the SCCTEN and to comply with the security policies established by the ISD.

ARTICLE ELEVEN: OPERATING EXPENSES

11.1 Operating Expenses. The ISD shall accumulate the SCCTEN operating expenses. These expenses will be allocated in accordance with individual agreements between the ISD and the Participants.

11.2 Review of Allocation. After three (3) years, the subject of the net operating expense allocation will be reviewed by the ISD to determine whether the allocation of operating expenses remain fair and reasonable, or whether it should be changed.

ARTICLE TWELVE: TERMINATION, WAIVER, AND DEFAULT

12.1 Termination of Participation. The expiration or termination of the applicable use or service agreement entered into between a Participant and the ISD pursuant to Article 4, above, shall result in the automatic termination of the participation of the Participant under this Agreement.

12.2 Default. If any Participant fails to comply with the terms and conditions of the use agreement entered into between the Participant and the ISD pursuant to Article 4, above, or defaults in any of its obligations under this Agreement, and fails to correct such default or non-compliance within thirty (30) days after written notice by the ISD, the ISD, at its option, may terminate the participation of a Participant under this Agreement.

12.3 Waiver. Failure to enforce or insist upon compliance with any of the terms or provisions of this Agreement or any other agreement shall not constitute a general waiver or relinquishment of any terms or provisions of this Agreement.

ARTICLE THIRTEEN: INDEMNIFICATION

13.1 Indemnity of Operating and Fiscal Agent. The ISD, its Board of Education, individual Board members, officers, agents, employees and representatives, shall have no liability

whatsoever to the Participants or any other person using or receiving services through the operation of the SCCTEN for the presence of the SCCTEN, or any part thereof, on the facilities of the Participant, for any interruption in the use and/or operation of the SCCTEN, or any part thereof, or any services provided or received in connection therewith, or for any acts or omission of the ISD, its officials, employees, agents, representative or contractor when acting in the capacity as the owner, maintenance provider, operating or fiscal agent of the SCCTEN, regardless of the cause, nature or duration. Each Participant hereby waives and forever releases, acquits and discharges the ISD, its Board of Education, individual Board members, officers, agents, employees and representatives from any and all such claims, causes of action, demands, liability and proceedings.

13.2 Mutual Waiving of Claims. Except as otherwise provided in a use, service or other agreement between the Owner and a Participants, each Participant hereby waives any and all claims, causes of action, demands and proceedings, regardless of the nature or the cause, against the ISD, or any other Participant, or any of their governing Boards, individual Board members, officers, agents, employees and representatives for any damage, loss or expense, including without limitation any direct, indirect, consequential, special, actual, punitive, loss of profit or any other damage, loss or expense in connection with this Agreement and the use, misuse, maintenance, or damage to the SCCTEN hereunder.

ARTICLE FOURTEEN: NOTICES

14.1 Notices. All notices or communications required or permitted to be given under this Agreement shall be sent by first class mail to the legal address of the Participant and to the attention of the Superintendent (if a school district), the President (if a hospital or college), or the appropriate chief executive officer of the Participant.

ARTICLE FIFTEEN: COMPLIANCES

15.1 Legal Compliance. Each Participant agrees to take no action which will cause SCCTEN to not comply with applicable laws and regulations.

15.2 Grant and Loan Compliance. Each Participant agrees that it will take no action which would cause SCCTEN or ISD to not comply with any terms and conditions of grants or loans extended to it in connection with the SCCTEN.

15.3 Permit Compliance. Each Participant agrees that it will take no action which would cause the SCCTEN or ISD to not comply with any terms and conditions of any permits or any agreements limiting or affecting the use of the SCCTEN.

ARTICLE SIXTEEN: MISCELLANEOUS PROVISIONS

16.1 Assignments. Participants may not assign, transfer or delegate any of their rights, benefits, duties or obligations under this Agreement in whole or in part without the prior written consent of the ISD.

16.2 Successors and Assigns. The terms and conditions of this Agreement shall be binding upon the successors or assigns of any of the Participants.

16.3 Authorized Signatures. Each of the Participants represents that it has caused this Agreement to be executed by authorized individuals at each of the respective institutions.

16.4 Amendments. This Agreement may be amended only by written mutual consent of all of the Participants and Owner.

16.5 Headings and Titles. The headings and titles in this Agreement are for convenience only and shall not be considered a part of or used in the interpretation of this Agreement.

16.6 Interpretation and Severability. If any provision in this Agreement is overbroad, unenforceable or in conflict with the terms and conditions of any grant or loan received by the ISD in connection with the SCCTEN or the terms and conditions of any permit or agreement of the ISD affecting the use of the SCCTEN, it shall nevertheless be enforced to the extent permitted under applicable law or consistent with any such grant, loan, permit or agreement. The unenforceability of any provision of this Agreement shall affect the remaining provisions of this agreement.

16.7 Governing Laws. This Agreement shall be governed by and enforced in accordance with the laws of the State of Michigan.

Intermediate School District of
St. Clair County

Joseph A. Caimi

Algonac Community School District

Dennis D. Guiser

Capac Community Schools

Mark A. Gualdoni

East China School District

Thomas B. Shorkey

Date: _____

Marysville Public School District

Charles S. Andrews

Memphis Community Schools

Kenneth Helinski

Port Huron Area School District

William D. Kimball

Yale Public Schools

Ralph Darin

16.6 Interpretation and Severability. If any provision in this Agreement is overbroad, unenforceable or in conflict with the terms and conditions of any grant or loan received by the ISD in connection with the SCCTEN or the terms and conditions of any permit or agreement of the ISD affecting the use of the SCCTEN, it shall nevertheless be enforced to the extent permitted under applicable law or consistent with any such grant, loan, permit or agreement. The unenforceability of any provision of this Agreement shall affect the remaining provisions of this agreement.

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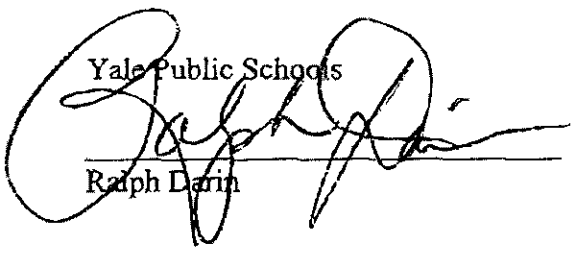
Port Huron Area School District


William D. Kimball

East China School District


Thomas B. Shorkey

Yale Public Schools


Ralph Darin

ALGONAC SCHOOLS ADMIN Fax:8107940040

Oct 17 2005 11:57 P.16

St. Clair County Community College

Christa Adams

St. Clair County Library

Larry Frank


Dated: _____

ALGONAC SCHOOLS ADMIN Fax: 8107940040

Oct 17 2005 11:57 P.17

St. Clair County Community College

St. Clair County Library

Christa Adams

Christa Adams

Larry Frank

Dated: *Nov. 13, 1998*

**ST. CLAIR COUNTY TELECOMMUNICATIONS SCHOOL DISTRICT
INTERNET CONNECTION AGREEMENT**

Name of District: Algonac Community School District

Billing Address: 1216 St. Clair Blvd., Algonac, MI 48001

Contact Person: Dennis Guiser, Superintendent

Phone: 810.794.4364

Effective Date of Agreement: March 26, 1999

District Facilities to be Connected: See Attached List

Billing Rate: ^{\$588.27} (\$1.53/student/month): 3957.95/mo

\$ 43,819 for services provided from July 1, 1999 through June 30, 2000. This amount will be adjusted annually based on the District's Fall student enrollment count and any annually agreed upon rate increase. The ISD will provide monthly invoices which are due within 20 days of the billing date. This Agreement will continue to be renewed on a yearly basis unless otherwise terminated by either party.

- The ISD leases a high speed 15 mbps line ("lease line") which provides connectivity for the St. Clair County Telecommunications Educational Network (the "SCCTEN") to the Internet. The connection covered by this agreement is subject to the limitations, terms and conditions of the ISD's lease agreement for the lease line.
- The ISD will provide all equipment required for this connection up to the point of entry into any facility of the District that is connected to the SCCTEN through agreement with the ISD.
- The ISD will use reasonable efforts to maintain Internet connectivity at all times, however, cannot guarantee this connection. The ISD is not responsible for the failure or the inadequacies of the connection or any damages resulting therefrom.
- The District is responsible to regulate the appropriate use of the connection and for any damages resulting from the inappropriate use thereof. Inappropriate uses include, without limitation, any use that is illegal or that violates the security of the SCCTEN, other parties connected to the SCCTEN or the Internet service provider, including unsolicited e-mail messages, the unauthorized use of another site's mail server to relay mail and excessive cross-posting or multiple-posting of messages.
- This Agreement may be terminated at any time by either party. In the event of termination during a contract year, the ISD will reimburse the Library for any contract days remaining on a pro-rata basis, less any other amounts due under this Agreement.

the ISD

By: [Signature]
Its: Superintendent

the DISTRICT

By: [Signature]
Its: Superintendent

**ST. CLAIR COUNTY TELECOMMUNICATIONS SCHOOL DISTRICT
INTERNET CONNECTION AGREEMENT**

Name of District: Algoma Community School District

Billing Address: 1216 St. Clair Blvd., Algoma, MI 49801

Contact Person: Dennis Guiser, Superintendent Phone: 810.794.3364

Consortium Agreement Period: July 1, 1999 through June 30, 2000

District Facilities to be Connected: See Attached List

Billing Rate: \$1.13/line/month 3957.75/mo

\$ 47,519 for services provided from July 1, 1999 through June 30, 2000. This amount will be adjusted annually based on the District's Fall student enrollment count and any mutually agreed upon rate increases. The ISD will provide monthly invoices which are due within 20 days of the billing date. This agreement will continue to be renewed on a yearly basis unless otherwise terminated by either party.

- The ISD leases a high speed 15 mbps line ("lease line") which provides connectivity for the St. Clair County Telecommunications Educational Network (the "SCCTEN") to the Internet. The connection covered by this agreement is subject to the limitations, terms and conditions of the ISD's lease agreement for the lease line.
- The ISD will provide all equipment required for this connection up to the point of entry into any facility of the District that is connected to the SCCTEN through agreement with the ISD.
- The ISD will use reasonable efforts to maintain Internet connectivity at all times, however, cannot guarantee this connection. The ISD is not responsible for the failure or the inadequacy of the connection or any damages resulting therefrom.
- The District is responsible to regulate the appropriate use of the connection and for any damages resulting from the inappropriate use thereof. Damages may include, without limitation, any use that is illegal or that violates the security of the SCCTEN, other parties connected to the SCCTEN or the lease line provider, sending unsolicited e-mail messages, the unauthorized use of another site's mail server to relay mail and excessive traffic loading or multiple paging of messages.
- This Agreement may be terminated at any time by either party. In the event of termination during a contract year, the ISD will reimburse the District for any equipment days remaining over a pro rata basis, less any other amounts due under this Agreement.

the ISD

By: [Signature]
Its: Superintendent

the DISTRICT

By: [Signature]
As: Superintendent



Intermediate School District of St. Clair County

P.O. Box 5001
Port Huron, Michigan 48061-5001
810/364-4500 FAX 810/364-7474
www.isdsc.org

Dan L. DeGrow, Superintendent

Board of Education

David G. Cain, President
Darryl S. Briggs, Vice President
Wm. Donald J. Gale II, Secretary/Treasurer
Lee A. Hays, Trustee
Robert H. Smith, Trustee

ST. CLAIR COUNTY CONSORTIUM INTERNET CONNECTION AGREEMENT

Name of District: **Algonac Community Schools**

Billing Address: **21500 E. 21st, Algonac, MI 48001**

USF Discount: **40%**

Billing Rate: Number of students **3000** x \$2.06 x 12 months = **\$62,280.00** annual

USF discount amount **\$24,912.00** = **\$37,368.00** total discounted amount

Consortium Agreement Period: **July 1, 1999 through June 30, 2007**

- This Agreement for **\$37,368.00** is for services provided from **July 1, 2004 through June 30, 2005**.
- This amount will be based on the District's fall student enrollment count and any mutually agreed upon rate increase. The St. Clair County Intermediate School District (ISD) will provide monthly invoices that are due within 20 days of the billing date. This Agreement will continue to be renewed on an annual basis unless otherwise terminated by either party.
- The ISD is the owner of a high-speed 20 mbps connection that provides connectivity for the St. Clair County Telecommunications Educational Network (SCCTEN) and its participants to the Internet. This connection is for educational use only and is subject to the limitations, terms and conditions of the ISD's agreement for the connection and any applicable network licenses and Internet service agreements.
- The ISD will provide all equipment required for this connection up to the point of entry into any facility of the district that is connected to the Internet through agreement with the ISD. The district acknowledges that:
 - Ownership of equipment required for this connection is not transferable to the district/library.
 - There is no option for the district/library to purchase the equipment required for this connection.
 - The district/library has no contractual right to exclusive use of the equipment.
 - There are no upfront, non-recurring charges for use of the equipment.
 - The district/library will not use the equipment for any purpose other than those eligible under this agreement.
 - The local communications are functional without dependence upon this equipment.
 - The St. Clair County Intermediate School District is responsible for maintaining this equipment.
- The ISD will use reasonable effort to maintain Internet connectivity at all times, however, cannot guarantee this connection. The ISD is not responsible for the failure of the inadequacies of the connection or any damages resulting there from.

The Intermediate School District is a non-profit, equal opportunity employer.
Auxiliary aids and services are available to individuals with disabilities.
Voice TDD (800) 649-3777

- The District is responsible for regulating the appropriate use of the connection and for any damages resulting from the inappropriate use of the connection. Appropriate uses include, without limitation, any use that is illegal or that violates the security of the SCCTEN, other parties connected to the SCCTEN or the lease line provider; sending unsolicited e-mail messages; the unauthorized use of another site's mail server to relay mail; and excessive cross-posting or multiple-posting of messages.
- Either party may terminate this Agreement at any time. In the event of termination during a contract year, the ISD will reimburse the St. Clair County Schools for any contract days remaining on a pro rata basis, less any other amounts due under this Agreement.

The ISD

By: Don L. DeLeon

Its: Superintendent

the DISTRICT

By: Dennis Guesen

Its: Superintendent

Date: 1/12/04

Date: 1/12/04



ST. CLAIR COUNTY REGIONAL EDUCATIONAL SERVICE AGENCY

Dan L. DeGrow, Superintendent
499 Range Road • PO Box 1500
Marysville, MI 48040
Tel: 810/364-8990 • Fax: 810/364-7474
Web: www.sccresa.org

Board of Education
Donald B. Cole, President
Darryl S. Dugas, Vice President
Lee A. Hulewicz, Secretary/Treasurer
Robert F. Beattie, Trustee
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September 13, 2005

Dennis Nielsen
Schools & Libraries Division
COMAD Team

Dear Mr. Nielsen,

I am in receipt of your letter dated September 9, 2005 regarding my name appearing on both Form 470 527900000266476 for several local school districts, as well as being the contact for the Intermediate School District (ISD) of St. Clair County's Form 498, having SPIN number 143016586. I am the Director of Information Technology for the ISD, now known as *St. Clair County Regional Educational Service Agency* (RESA). We provide a number of general, special, and career & technical education services to our local districts, and one of those services is technology capabilities including Internet connectivity. I work collaboratively with our local school districts, each of whom has their own technology departments and independently makes technology purchasing decisions.

The purpose of an ISD/RESA in Michigan is to take advantage of economies of scale on behalf of local school districts. As such, my organization provides numerous services on behalf of our local districts. One of these services is assistance with USF filing. RESA staff attend training provided by the state that deals with the filing process, changes to the program, and filing deadlines. They then provide that training to our local districts, thus minimizing the number of district personnel that must be absent from their buildings in order to receive relevant information. RESA staff provide support for frequently asked questions, alert districts to program changes, advise of filing deadlines, assist with appropriate student count and percent discount calculations, and suggest appropriate funding categories for which districts might apply. All of these functions are separate from my role and are provided by staff in departments other than Information Technology. Please see the attached organizational flowcharts. In today's financial situation in K-12 schools, economies of scale such as centralized training, process and technical advising are vital to local districts. RESA's mission as "an indispensable part of every local district" requires us to assist with these processes.

In response to your questions:

Why are you listed as the contact person in Item 11 of the form 470?

St. Clair RESA owns and manages fiber optic cable that connects all buildings in the public local districts. We believed that listing me as the contact person would provide the most direct access to information for any competitive vendor that was interested in delivering Internet access to St. Clair County schools using a pre-existing, publicly funded network infrastructure. Because RESA, not the local districts, owns the fiber, RESA must authorize any external usage of the fiber plant (see attached contract). My involvement was simply to expedite information for potential bidders.

What was your level of involvement in the competitive bidding process?

I provided a bid response to each local district's request for service.

Did any potential bidders contact you and ask for information regarding Forms 470? If so, who contacted you, what types of questions were you asked, what were your responses?

No potential bidders contacted me.

If there is other documentation that you feel is relevant in demonstrating that you did not taint the competitive bidding process, please provide such documentation.

The network consortium agreement and organizational flowcharts are attached.

Sincerely,

Scott Bryan
Director, Information Technology

Evan Humphrey
Algonac Community Schools
5200 Taft Road
Algonac, MI 48001

Billed Entity Number: 130789
Form 471 Application Number: 405730
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 29, 2005

Evan Humphrey
Algonac Community Schools
5200 Taft Road
Algonac, MI 48001

Re: Applicant Name: ALGONAC COMM SCHOOL DISTRICT
Billed Entity Number: 130789
Form 471 Application Number: 405730
Funding Request Number(s): 1111155
Your Correspondence Received: March 31, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1111155
Decision on Appeal: **Denied**
Explanation:

- On appeal you are seeking the reversal of the SLD's decision to deny the funding request on the basis that your explanation of the time lapse between the posting date of the referenced 470 and the contract award date (CAD) failed to assure SLD that you conducted a fair and competitive process and chose the most cost-effective offering with price the primary factor. You assert that the correct CAD should have read January 6, 2000 instead of January 3, 2000, and the error should not be a cause for denial of your funding request.
- Upon review of the contractual terms that were submitted, it was clear that Algonac Community School District signed a one year service agreement on January 12, 2004 for July 1, 2004 to June 30, 2005 based on the rate of the original consortium agreement. Since this was a one year agreement, you should

have posted a Form 470 for the funding year for this funding request. You cited a Form 470 with an allowable contract date of January 6, 2000.

- The funding request you submitted cites January 12, 2004 as the date you entered into a contract with the service provider. The allowable contract date associated with the referenced Form 470 on this funding request was January 6, 2000. Due to the time lapse between the allowable contract date and the contract award date, and that the type of services you requested must be competitively bid in each funding year, you failed to comply with the FCC's competitive bidding requirements. Consequently, the SLD denies your appeal.
- Your explanation of the time lapse between the allowable contract date of the referenced FCC Form 470 and the contract award date failed to assure the SLD that you conducted a fair and competitive bidding process and chose the most cost-effective offering with price being the primary factor. FCC rules require that, except under limited circumstances, applicants must file with SLD, for posting to its web site, a new FCC Form 470 requesting services and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. 47 C.F.R. §§ 54.504(a) and (b), 54.511(a) and (c). These competitive bidding requirements help ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order on Reconsideration*, 12 FCC Rcd 10095, p. 10098, FCC 97-246, ¶ 9 (rel. Jul. 10, 1997). This posting requirement applies to requests for discounts for month-to-month or tariff services as well as contracted services. 47 C.F.R. § 54.504 (b). Pursuant to the Commission's rules, voluntary contract extensions are not exempt from the competitive bidding requirement. 47 C.F.R. § 54.511 (d)(1).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Algonac Community Schools

1216 St. Clair Blvd.

Algonac, Michigan 48001

(810) 794-9364

Fax (810) 794-0040



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Trustees

Letter of Appeal
Schools and Library Division
Box 125-Coreespondence Unit
80 South Jefferson Road
Whippany, N.J. 07981

September 4, 2001

LETTER OF APPEAL ON FUNDING DECISION

Dear Sirs,

This letter is an official appeal letter on a decision we received from your offices about our internet connection. In following your guidelines, this is the information you require.

Letter Type:	Funding Commitment Decision Letter
Relevant Funding Year:	4
Date of Letter:	August 7, 2001
Applicant Name:	Algonac Community Schools
Form 471 Application Number:	221791
Billed Entity Number:	130789
Funding Request Number:	510362

This is a letter of appeal to your decision that states as follows: "The cited form 470 must be filed and posted no earlier than July 1 of the year preceding the funding year for which the form 471 application is made."

The service that we are asking for funding on is an ongoing service that you have funded for the last three funding years for this entity. This is a multi year contract to which a 470 has already been filed for the consortium involved. (See Attachment A)

Your Form 470 instructions state as follows: "Services that are covered by a **qualified existing contract** for all or part of the funding year do not require filing of form 470, since you are not seeking bids for these services. A qualified existing contract is:

A signed, written contract executed pursuant to the posting of a form 470 in a previous funding year."

The contract for the Internet Service is a multi year contract signed July 1, 1999 and is effective through June 30, 2007. (A copy of the contract is attached as Attachment B.) We pay for this contract on a month to month basis. In the past years, we have responded under contract number the term "MTM". Every year this service has been approved for funding. We changed nothing on this years application from the previous year applications.

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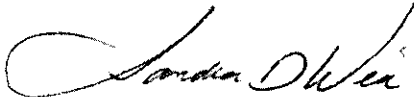
Auxiliary aids and services are available upon request to individuals with disabilities.
Michigan Relay Center 1-800-649-3777 (Voice and TDD)

We feel that there is a confusion as to the type of contract that this is for our Internet Service. It is a multi year contract where a form 470 was already filed by our consortium. The rules as you stated them have been followed.

We will be happy to send you any further information that you might need. We are looking at a funding commitment request of \$34,603.20.

Thank you for looking into this situation for us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra D. Weir".

Sandra D Weir
Director of Business Services

Evan Humphrey
Technology Computer Specialist

Enc